

MDR Tracking Number: M5-04-0481-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 10-15-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits, therapeutic exercises, unlisted therapeutic procedures, therapeutic activities, myofascial release and treating doctor MMI were found to be medically necessary. The ultrasound, joint mobilization and electrical stimulation were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 11-12-02 through 03-12-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 2nd day of January 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division
DLH/dlh

December 29, 2003
Amended December 31, 2003

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

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IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

This patient was injured on the job at ___ when she tripped over an electrical cord and fell, injuring her knees. The patient had surgery on the right knee along with some injection therapy and she underwent a post-surgical rehabilitation program. Apparently, care to the left knee was not rendered until late ___, a full 10 months past the date of injury. Records indicate that passive care and active treatment were rendered at that point. ___ assessed a 6% whole person impairment on November 15, 2002. MRI of the left knee indicated that there was a diagnosis of chondromalacia patella. A RME by ___ indicated that no further care was necessary.

DISPUTED SERVICES

The carrier has denied the medical necessity of office visits, therapeutic exercises, unlisted therapeutic procedures, therapeutic activities, electrical stimulation, myofascial release, ultrasound, joint mobilization and treating doctor MMI as medically unnecessary with a peer review.

DECISION

The reviewer agrees with the prior adverse determination with respect to ultrasound, electrical stimulation and joint mobilization.

The reviewer disagrees with the prior determination for all other services rendered.

BASIS FOR THE DECISION

The treatment rendered was documented as being a reasonable approach to this patient's healthcare. The notes presented by the treating doctor did indicate that not only had the left knee been largely ignored, it did indeed respond to the exercises that were performed. The MMI was necessary to assess the impairment rendered on this case and the follow-up office visit in March of 2003 was documented as part of an exacerbation.

That being said, it is clear that the passive therapies utilized in the program were not effective at that time. This was a clear case of a chronic injury that was treated as an acute onset, which was not appropriate. Also, joint mobilization is a form of manipulation that is covered in any basic office visit to a chiropractic office and is not documented as reasonably rendered in excess of the normal office visit.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,